IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1496 OF 2003
IN
EXECUTION APPLICATION NO.330 OF 2003
IN
ARBITRATION CASE NO.A-67 OF 2001-2002

M/s.N.R. Design Centre Pvt.Ltd. ....Plaintiff

V/s.

M/s.Janak Enterprises ....Defendant

And

Rasiklal H. Parekh ....Applicant

Mr.Chourashia i/b Mr.Ashok Kumar Saraogi for the Plaintiff.

Mr.Yusuf Iqbal i/b Ms.Hemani Jhariya for the Defendant.

CORAM : S.J. VAZIFDAR, J.
DATED : 1ST SEPTEMBER, 2004.

P.C. :

1. The Chamber Summons is taken out by the Applicant to recall the warrant of attachment dated 6th September, 2003 in the above execution application in respect of the Applicant's premises viz. Room No.3, first floor, Ramwadi, Ram Mandir, 130, Vitthalwadi, off Kalbadevi, Mumbai-400 002 and for

removal of the immovable properties in the suit premises as well as the attachment levied on the said premises.

2. It is true that the Applicant is father of the Defendant - judgment debtor. That however, does not entitle the Plaintiff to attach and sell in execution the properties belonging to the judgment debtor's father.

3. The said premises were attached pursuant to the warrant of attachment dated 12th September, 2003 There is nothing to indicate that the Defendant had any right, title or interest in respect of the said premises which are business premises of the Applicant. The rent receipts have been issued in favour of the Applicant at least from 1.2.1988 todate. The Plaintiff has not produced any evidence which establishes that the Defendant is the tenant in respect of the said premises.

4. In the circumstances, it would also follow that no execution could be levied in respect of the immovable properties in the aforesaid premises for the same do not belong to the Defendant and the Defendant has no interest therein.

5. In the circumstances, the Chamber Summons is made absolute in terms of prayers (a), (b) and (c). It is clarified that this order does not affect the execution application so far as it relates to the properties owned by the Defendant. No order as to costs.

. All the concerned parties including the Sheriff of Bombay to act on an ordinary copy of this order duly authenticated by the Chamber Registrar / Court Stenographer of this Court.